

REMARKS

The indication of allowable subject matter in claims 2, 5, 8, 11, 14, 17 and 20 is acknowledged and appreciated. In order to expedite issuance of the present application, claims 3, 6, 9, 12, 15, 18 and 21 have been canceled to reduce issues, without prejudice/disclaimer to the subject matter embodied therein. In view of the following remarks, it is respectfully submitted that all claims are in condition for allowance.

As a preliminary matter, it is noted that the Examiner has not provided an initialed copy of the Information Disclosure Statement filed on April 25, 2005. A copy of the IDS and stamped-post card showing receipt by the PTO is attached hereto for the Examiner's reference. It is respectfully requested that the Examiner provide Applicants an initialed copy of the IDS indicating that each of the prior art references cited therein have been considered and made of record. In addition, it is noted that the initialed copy of the Information Disclosure Statement filed on February 22, 2002, provided by the Examiner in the Office Action dated September 22, 2004, does not include the Examiner's initials for USP No. 5,844,743 to Funches. Another copy of this IDS is being submitted herewith, and it is respectfully requested that the Examiner initial next to USP No. 5,844,743 to Funches to confirm it has been considered and made of record.

Claims 1, 4, 7, 10, 13, 16 and 19 are independent and stand rejected under 35 U.S.C. § 102(b) as being anticipated by Patton et al. '840 ("Patton"). This rejection is respectfully traversed for at least the following reasons.

The Examiner has broadly interpreted the claimed disturbance estimation information as the disclosed BEMF signal of Patton. However, the BEMF signal described by Patton is induced by a

angular displacement velocity of the read/write head (col. 7, lines 1-5). In contrast, according to one aspect of the present invention, the disturbance estimation information is indicative of an angular *acceleration* of the head (*see, e.g.*, page 23, lines 22-27 of Applicants' specification). In order to clarify this distinction between the present invention and Patton, each of the independent claims have been amended to recite a disturbance *torque* estimation section.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Patton does not anticipate the independent claims, nor any claim dependent thereon.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplicatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as the independent claims are patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejections under 35 U.S.C. § 102/103 be withdrawn.

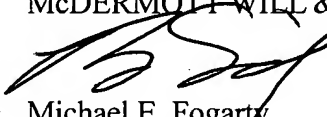
CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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